
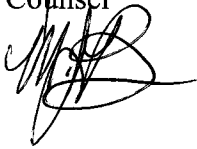


MEMORANDUM

TO: Tami Lewis
Special Education Reform, Acting Manager

FROM: Virginia Crisman 
Assistant General Counsel

THROUGH: Monica J. Brown 
General Counsel

SUBJECT: Blackman Jones Consent Decree Summary

DATE: October 18, 2007

Purpose:

The primary purpose of this Memorandum is summarize the Blackman Jones Consent Decree Order, highlighting the critical action items for compliance, including the elimination of the Hearing Office backlog, implementation of Hearing Officer decisions and settlement agreements; improvements to administrative organization and oversight; enforcement, auditing, and reporting requirements. Each of the salient provisions for compliance is outlined below.

With a Consent Decree of this magnitude and complexity, there is always a danger in oversimplification. This document provides a quick reference tool *i.e.*, a check list for deliverables and metrics. Accordingly, the Memorandum identifies the goal posts for compliance rather than a substitute for the Consent Decree Order.

It is also understood, that while achieving compliance is an element for assuring the District's youth receive quality special education services, the Office of the State Superintendent (OSSE) has a more far reaching goal. As one of OSSE's highest

priorities, the objective is to reengineer special education in the District with best practices, early interventions, and wrap around case management services in a system that is professional, responsive and accountable.

Background and Summary:

The Consent Decree Order, approved in final on August 24, 2006, addresses special education related issues presented in two consolidated cases. *Blackman v. District of Columbia* (Civil Action No. 97-1629), challenged the District of Columbia's failure to hold timely special education due process hearings mandated by the Individuals with Disabilities Education Act (IDEA) 40 U.S.C. § 1400 et seq. The second case, *Jones v. District of Columbia*, (Civil Action No 97-2402) charged that the system unduly delayed implementation of the Individualized Education Plans (IEPs) ordered by hearing officers or agreed to in the due process hearings.¹

Consent Decree Summary:

Basically the Consent Decree contains a compliance timetable with specific metrics for:

- Adjudicating or settling 90 percent of pending hearing requests (by September 24, 2006) and ensuring that no requests are more than 90 days overdue.
- Implementing (by June 30, 2007), all currently overdue plans.
- Setting a schedule of deadlines to provide services ordered or agreed to in new IEPs.
- Improving and maintaining the District's special education data management systems and developing a tracking system to identify and remediate service lapses.
- Providing compensatory education services to eligible special education students whose access to services has been delayed.
- Reporting compliance, assisted by a monitor, Amy Totenberg, and an evaluation team.

¹ The Plaintiffs brought this litigation in July and October 1997, alleging violations of their constitutional rights and their right to a free and appropriate public education afforded by the Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C. § 1400 et seq. and 42 U.S.C. § 1983. In the complaint, Plaintiffs alleged that the District of Columbia Public Schools ("DCPS") failed to: (a) provide due process hearings within 35 days of receipt of a hearing request, pursuant to 5 DCMR § 3021.5, and Hearing Officer Determinations ("HODs") within forty-five (45) days of receipt of a hearing request, pursuant to 20 U.S.C. § 1415, et seq., as it then read, and (b) timely implement HODs and Settlement Agreements ("SAs"). The Blackman subclass was certified on October 21, 1997, and the Jones subclass was certified on May 13, 1998. Following submissions, the Court granted summary judgment on liability on Plaintiffs' behalf on June 3, 1998. At that time, the Court urged the parties to seek a remedial plan to address the shortcomings in DCPS' special education program.¹ The parties and the Court agreed to a Consent Decree filed on August 24, 2006 which is summarized herein.

The Consent Decree Order mandates that the District budget \$5 million annually above the normal public school system budget to comply with the Consent Decree Order, along with an additional \$10 million to pay for compensatory education services.

CONSENT DECREE ORDER SETTLEMENT PROVISIONS

The District must as quickly as possible comply with federal law requirements for timely hearings and timely implementation of hearing office decisions and settlement agreements, with a 90% compliance rate based on levels specified in paragraphs 29 and 42 of the Consent Decree. The critical action items to achieve compliance are outlined below with reference to the corresponding paragraph number (§) in the Consent Decree Order.

A. TIMELY ISSUANCE OF HEARING OFFICER DECISIONS (HOD) AND SETTLEMENT AGREEMENT (SA)

- 1) Maintain sufficient staff and contracts with independent hearing officers to maintain compliance (§ 28).
- 2) 90% of all hearings must be adjudicated on a timely basis (§ 29 a).
- 3) All due process hearings must be held within 90 days of a request (§ 29 b).
- 4) No excuses or time revisions to § 29 will be entertained to achieve compliance, excluding the overdue exceptions outlined in § 31 (§ 30).
- 5) Identifies HODs which will not be counted as late for compliance purposes of § 29 under specific circumstances (§ 31).
- 6) Cases continued due to the parent's or parents legal representatives failure to attend a scheduled resolution session or respond to the District's efforts to schedule a hearing (§ 31 a).
- 7) Continuance due to parent or legal representative's lack of preparation (§ 31 b).
- 8) Voluntary withdrawal of hearing request (§ 31 c).
- 9) Valid continuance for specified good cause (§ 31 d).
- 10) Description of Untimely cases (§ 32).
- 11) Unavailability of DCPS witnesses or counsel, unless DCPS can prove diligent efforts to have such persons appear (§ 32 a).
- 12) Hearing Office unavailability (§ 32 b).

- 13) SHO or Hearing Officer's decision to allot a different amount of time from that requested by parent (§ 32 c).
- 14) SHO failure to provide space for hearing under normal circumstances (§ 32 d).
- 15) SHO failure to issue timely notifications and documents (§ 32 e).
- 16) HO or DCPS late arrival at a hearing (§ 32 f).
- 17) SHO failure to arrange for proper recording equipment (§ 32 g).

B. RESOLUTION SESSIONS (RS)

- 1) Governance of sessions for a parent's administrative due process complaint notice etc pursuant to the IDEA, 20 USC § 1415; pertinent regulations and DC laws (§ 33).
- 2) Good faith efforts must be made to schedule RSs (§ 34).
- 3) Schedule an RS within 3 days of due process complaint; parent required to participate if the RS is scheduled within the 15 day statutory requirement (§ 34 a).
- 4) RS confirmation notification within 48 hours of initial scheduling date, within the statutory 15 day requirement (§ 34 b).
- 5) HO must issue HOD within 10 days of a hearing but not more than 75 days after issuance of complaint, upon mutual waiver of RS (§ 34 c).
- 6) No continuance to be granted to the District with a failure to schedule an RS within 15 days (§ 35).
- 7) Alleged procedural failures during RS may be addressed during the due process hearing (§ 36).
- 8) Parent representatives' participation (§ 37).
- 9) Due Process Complaint form to be completed at conclusion of RS, with immediate copies to the parent and parent's representative; and copy to DCPS General Counsel within 72 hours; and signed RS requirements (§ 38).
- 10) Monitor to prepare an RS Report by January 2007 (§ 39).

**C. TIMELY IMPLEMENTATION OF HEARING OFFICER DECISIONS (HOD)
AND SETTLEMENT AGREEMENT (§§ 40 – 52)**

- 1) Hire sufficient staff and take “other needed” measures (§ 40).
- 2) Eliminate the initial Jones Backlog by June 30, 2007 by implementing or closing the backlog cases (§ 41).
- 3) The District to manage the subsequent Jones Backlog as follows:
 - a. By June 30, 2007, no case in the subsequent backlog will be more than 180 days overdue and 50% of the HODs/SAs issued on or after March 1, 2006 will be timely implemented. (§ 42 a)
 - b. By June 30, 2008, no case in the subsequent backlog will be more than 150 days overdue and 65% of the HODs/SAs issued on or after July 1, 2006 will be timely implemented (§ 42 b)
 - c. By June 30, 2009, no case in the subsequent backlog will be more than 120 days overdue and 80% of the HODs/SA, issued on or after July 1, 2008, will be timely implemented (§ 42 c)
 - d. By June 30, 2010, no case in the subsequent backlog will be more than 90 days overdue, and 90% of the HODs/SA, issued on or after July 1, 2009, will be timely implemented (§ 42 d)
- 4) Achieve 100% compliance with paragraphs 41 and 42 (§43).
- 5) Agree with the parties and implement a Protocol (by 2006 – 2007 school year) for closing HODs and SAs (§ 44).
- 6) Exceptional circumstances for over due a case in the Jones subsequent backlog (i.e. 180, 150, 120, 90 days) may be taken into consideration upon the District’s written submission to the Monitor and plaintiff’s counsel, giving the Monitor discretion to approve exceptions and exclude cases from the backlog (§ 45).
- 7) Quarterly reports to be submitted to the Monitor and Counsel on status of cases in the Jones initial and subsequent backlog, the rate of timely implementation, the number of cases overdue, and information about the length of time cases are overdue in accordance with prescribed adjustments and formula set forth in this paragraph. Reports are due 10days after the end of each quarter beginning Jan-March) (§ 46).
- 8) District to have submitted an Action Plan to fulfill their commitment to eliminate the Jones initial backlog and manage subsequent backlog (§ 47).
- 9) District to use best efforts to prioritize resolution beginning with the oldest HODs/SAs (§ 48).

- 10) The Evaluation Team will annually assess obligations set forth in paragraphs 41 and 42 in accordance with specified terms for upward adjustments set forth in this paragraph (§ 49 a - e).
- 11) Until the Jones portion of the case is terminated, the District will budget \$5 million annually to implement actions for timely implementation of HODs and SAs specified in paragraphs 40 – 52) (§ 50).
- 12) The District must comply with the Action Plan's specification that an "additional seventy 70 FTEs" will be created and filled, noting that [OSSE] will have discretion to move and switch positions in accordance with the specifications outlined in this paragraph (§ 51).
- 13) Description of HOD/SA implementation and diligent effort exceptions (§ 52).

D. STUDENT HEARING OFFICE REQUIREMENTS

- 1) The SHO to remain separate from Office of Administrative Hearings during Consent Decree and the Office of Administrative Hearings Independence Preservation Act of 2004 does not apply to the SHO (§ 53).
- 2) The SHO Standard Operating Procedures (SOP) Manual (including all updates) must be posted on a searchable website; parents to be provided a paper copy of the SOP Manual upon request; and copies of the SOP Manual to be available at "Advocates for Justice in Education, the Parent Center, and Parent Information Training Center" (§ 54).
- 3) Revisions to the SHO SOP Manual must provide class counsel with 15 days to review and object, with any disputes presented to the Monitor, and if necessary to the ADR Specialist provided for in the Decree (§ 54 a).
- 4) Revisions to procedural rules for scheduling special education due process hearings must also be provided to class counsel with 15 days to review and object, with any disputes presented to the Monitor, and if necessary to the ADR Specialist provided for in the Decree; should the procedural rules conflict with the SOP, the SOP should be revised to conform [or vice versa] (§ 54 b).
- 5) SHO Operating Requirements: timely hearings, sufficient staff, equipment and resources (§ 55).
- 6) Ongoing Annual Hearing Officer Training and training materials (with class counsel input) to be provided for all Hearing Officers and training for new Hearing Officers must occur within 45 days of each new appointment (§ 55 a).

- 7) Hearing Officers must have access to relevant case law, including the IDEA Law Reporter (§ 55 a).
- 8) Scheduling Requirements which must also conform to the SHO SOP Manual (§ 55 b).
- 9) Prompt and courteous performance of all Hearing Office duties required, with a recorded message capability; and all messages to be returned by close of the following business day (§ 55 c).
- 10) SHO Hearing and Records Administration (§ 55 d): (a) Prompt distribution of all documents (§ 55 d i); (b) accurate/timely documentation of all incoming/outgoing documents (§ 55 d ii); (c) maintenance of historical statistical data (§ 55 d iii); (d) archival and Retrieval capability of all hearing record files (§ 55 d iv); (e) sufficient work space for staff and Hearing Officers must be maintained (§ 55 d v).
- 11) SHO staff and Hearing Officers must maintain a neutral posture (§ 55 e).
- 12) Hearing Officers cannot engage in ex parte communications with parties, counsel, witnesses or anyone involved with a hearing to which s/he is presiding (§ 55 e).

E. OFFICE OF ADMINISTRATIVE HEARINGS

- 1) The State Enforcement and Investigation Division (SEID) to retain special education jurisdiction during pendency of Blackman portion of the case; and is expressly prohibited from a transfer to Office of Administrative Hearings ("OAH") (§ 56).
- 2) OAH is not bound by this Consent Decree (§ § 57, 58, 59).

F. ACCURATE DATA SYSTEMS; REPORTING AND ACCOUNTABILITY

- 1) Achieve and maintain an accurate/reliable data system to track implementation of HOD/SAs and identify impediments to timely implementation of HODs/SAs. A Systems Analysis Expert to be retained to assist with achieving and maintaining a system (§ 60).
- 2) Maintain use of ENCORE or comparable data tracking system; notes migration from Special Education Tracking System (SETS) to ENCORE (§ 61).
- 3) The District to conduct an accuracy audit of ENCORE establishing a baseline for the accuracy of the system (§ 62).

- 4) The District is required to conduct Annual ENCORE accuracy audits to verify special education documentation is maintained in student folders (IEP, Assessments, Meeting Notes etc.) and in compliance with Federal regulations as well as [District] policies and procedures and data in ENCORE is congruent with the students' paper record (§ 62).
- 5) 96% accuracy rate (based on a representative sample) required for ENCORE by September 1, 2007, for special education students in DCPS, residential and private schools. Accuracy to be determined by audit of representative student files (§ 63).
- 6) Baseline and subsequent audits must compare the paper or electronic student file to the computer data record where applicable, reviewing the accuracy rate on an individual variable and aggregate basis for specific variables identified in this paragraph, e.g., student name, address, date of birth, social security number, HOD date etc.(§ 64 a - p).
- 7) To ensure delivery of related services, the District must develop an effective process to identify related service lapses as soon as possible and to resolve lapses and individual complaints in an expeditious manner, utilizing the Encounter Tracker (ET) portion of the ENCORE database to track hours of lapses, types of services missed, etc along with DCPS actions to address related service lapse (§ 65).
- 8) All schools must have capability to generate Encounter Tracker (ET) reports to track special education service delivery. ET reports should track daily special education services delivered to students; and necessary information to allow a gap and trend analysis. DCPS to provide appropriate training to related service providers for electronic version of ET (§ 65 a).
- 9) This subparagraph outlines requirements to monitor and analyze ET data and to obtain early warnings in service lapses and enhance monitoring of staff performance/accountability (§ 65 b).
- 10) This subparagraph describes remedial or disciplinary actions for service delivery failures (§ 65 c).
- 11) This subparagraph requires the District to make ET Reports and other related services data available to the Monitor, class counsel and Evaluation Team. The Monitor/Evaluation Team is responsible for verifying data accuracy and how data is being used (§ 66).

G. COMMUNITY BASED PARENT SERVICE CENTER

- 1) The District must maintain a community-based parent service center for parents of special education students. A private vendor, non profit or select [DCPS] office

with a special education parent representative included on the staff may maintain the Parent Service Center (§ 67).

- 2) Parent Service Center Features (§ 68) to include trained representatives available 50 hrs. /wk to speak to parents in languages required by DCPS (§ 68 a).
- 3) Within 15 days of initial contact, a Parent Service Center representative will follow with parents as well as with DCPS employees to resolve issues (§ 68 b).
- 4) Widespread Promotion and outreach information about the Parent Service Center to be disseminated (§ 68 c).
- 5) A Semi Annual Parent Satisfaction Survey to be conducted in consultation with class counsel to assess parent impressions about the Parent Service Center (§ 68 d).
- 6) This paragraph requires Coordination of the Parent Service Center with the Transportation Call Center (§ 69).

H. PRINCIPAL/TEACHER EVALUATION FORMS AND PARENT EVALUATION FORMS

- 1) This paragraph notes that the Principal Evaluation Forms increased emphasis on the provision of special education services during 2004 – 2005 school year (§ 70).
- 2) Teacher Performance Evaluation process must include an adequate evaluation of teacher's compliance with IDEA requirements under the teacher's control and responsibility (§ 71).
- 3) Annual Parent Evaluation Form must include a section dedicated to special education services satisfaction (§ 72).
- 4) The Special Education section in the Parent Evaluation Form must include input from class counsel, the Monitor and other expert consultation. Specific focus on items to evaluate include: timely HOD/SA implementation, timely evaluations, timely provision of services and satisfactory outcomes. The Parent Evaluation form must be distributed annually, with timely compilations of responses related to special education provided to class counsel (§ 72 a).
- 5) Annual Parent Evaluation must include representative results from "each disability" category for each age group, and if it does not, alternative means must be used to gather parent feedback such as focus groups or one on one interviews/phone calls (§ 72 b).
- 6) Any changes to the process required in the Consent Decree paragraph 72, must be made with notice and in consultation with class counsel, who have 15 days to

object and present dispute to the Monitor; with use of the ADR specialist to resolve disputes if necessary (§ 73).

I. COMPENSATORY EDUCATION FOR CLASS MEMBERS

- 1) The Consent Decree creates a rebuttable presumption of harm to a student denied a timely due process hearing, HOD and/or services (§ 74).
- 2) Class Members must follow designated procedures to receive compensatory education services (§ 75).
- 3) Compensatory Education Services Procedures (§ 76).
- 4) Election of available products and/or services from the Blackman Jones Compensatory Education Catalog (§ 76 a).
- 5) Compensatory education may be addressed during IEP meeting (§ 76 b i – iii).
- 6) Class Member receipt requirements of Compensatory Education Catalog; a parent may seek administrative and/or judicial enforcement of any compensatory award selected from the Catalog (§ 77).
- 7) The District of Columbia has the right to rebut the presumption of harm; the District has the burden of proof in enumerated situations conditions/procedures (§ 78).
- 8) The District of Columbia must make diligent efforts to Identity/Notify eligible students (§ 79).
- 9) Compensatory Eligibility time calculation/formulas (§ 80 a - c).
- 10) Compensatory Education limited to Blackman Jones class (§ 81).
- 11) District to provide a sum of \$10 million for compensatory education (§ 82).

J. CONSENT DECREE OVERSIGHT AND ENFORCEMENT

Monitor: Responsibilities, Access to Information and Reports:

- 1) Amy Totenberg, Monitor: responsibilities and authority (§ § 83 – 87).
- 2) Assurances for Monitor's access to information (§ 88).
- 3) Encore system and other data bases (§ 88 a).

- 4) All documents, records and information to which the District has access including student files, excluding documents subject to attorney client and work product privilege (§ 88 b).
- 5) Monitor has authority to share documents with District and class counsel (§ 89).
- 6) Monitor has ex parte authority to communicate with all parties/agents etc. (§ 90).
- 7) Monitor has ex parte authority to communicate with the Court, except on merits of matters pending judicial determination under the Consent Decree (§ 91).
- 8) Monitor must have access to IDELR when on DCPS premises (§ 92).
- 9) Monitor has authority to observe IEP meetings and due process hearings with parental consent; and has authority to visit and speak freely with school personnel and students and to observe HO training sessions (§ 93).

K. DISTRICT'S AGREEMENT WITH MONITOR

The District agrees to a three year term for the Monitor, memorialized in an MOA, incorporating Consent Decree responsibilities and Monitor's rights and responsibilities for hiring experts, establishing billing rates etc. There is also an assurance of fee funding, and three year renewal rights unless a party objects (§ § 94 - 100).

L. EVALUATION TEAM and TEAM REPORTING

- 1) Evaluation Team to assist in achieving compliance (§ 101).
- 2) HOD/SA implementation and report preparation (§ 101 a, b).
- 3) Evaluation Team authority and access to information (§ 102).
- 4) Evaluation Team composition: Monitor, Clarence Sundram, Rebecca Klemm. (§ 103).
- 5) Evaluation Team expenditures (§ 104).
- 6) Evaluation Team information sources, criteria (§ 105).
- 7) Evaluation Team reports dates and advance copies to counsel (§ 106).
- 8) Evaluation Team ex parte communication authority (§ 107).
- 9) Evaluation Team members and consultants for duration of Consent Decree (§ § 108, 109).

10) Evaluation Team reports may be used as evidence in this case (§110).

**M. ALTERNATIVE DISPUTE RESOLUTION (ADR) PROCEDURE;
AGREEMENT**

1) Appointment of Michael Levy, Michael Lewis and Linda Singer (§111- 114).

2) District's Agreement with ADR Specialists (§§ 115 - 116).

N. DISTRICT'S REPORTING REQUIREMENTS

1) All reports should be submitted in electronic form to class counsel and the Monitor when possible (§ 118). In addition, class counsel may request and have access to a sufficient sampling of records to verify the information contained in reports. Class counsel may also seek a site visit for document review with 7 days notice to DCPS (§ 126).

2) Quarterly reports to be submitted to the Monitor and Counsel on status of cases in the Jones initial and subsequent backlog, the rate of timely implementation, the number of cases overdue, and information about the length of time cases are overdue in accordance with prescribed adjustments and formula set forth in this paragraph. Reports are due 10days after the end of each quarter beginning Jan-March) (§ 46).

3) Quarterly report to Monitor and class counsel on Encounter Tracker reports (part of ENCORE) and other related services data (§ 66).

4) Quarterly "Special Conditions Report" relevant to the provisions of the Consent Decree and the Annual Performance Report submitted to the U.S. Department of Education (DOE), Office of Special Education Programs (OSEP), must be submitted to counsel and the Monitor within 7 days after submission to DOE, along with all corresponding DOE, or OSEP responses (§ 117 a).

5) Monthly list of due process hearing requests pending without timely hearings (§117 b).

6) Monthly list of all due process hearing requests (not already listed in paragraph 117 b) above, which are pending without an HOD having been timely issued (§ 117 c).

7) Monthly list of all HODs and SAs which are overdue for implementation. These reports to include information on all continuances, so that class counsel and the Monitor can determine whether the cases for which a continuance was granted should be excluded from the compliance calculations in paragraphs 31 and 32. The reports are to be generated by ENCORE or another data management system, with the data accuracy confirmed in the Annual Data Audit (§ 117 d).

- 8) Annual Data Audit reports must be provided to class counsel within 5 days of completion (§ 117 d).
- 9) Quarterly reports (in a form acceptable to the Monitor) must be provided to the Monitor and class counsel reviewing compliance status with any Consent Decree provisions not covered in the monthly reporting requirements of Consent Decree paragraphs 46, 66, 121 and 122 (§ 117 d).
- 10) List of any remaining Jones class members in the initial backlog due after March 1, 2006; to have been provided to class counsel by November 24, 2006 (60 days after final approval of the Consent Decree, August 24, 2006) (§ 119).
- 11) List of every student who ever qualified as a class member in this litigation, so students eligible for Blackman Jones Compensatory Education Catalog are identified; to have been generated by October 24, 2006, 60 days after final approval of the Consent Decree, August 24, 2006 (§ 120).
- 12) Quarterly reports on ET implementation until Monitor is satisfied that implementation is completed in all schools (§ 121).
- 13) The following reports will be provided monthly to the Monitor and class counsel: “special education service center monthly reports” and any parent satisfaction surveys reports (§ 122).
- 14) All other reports that the Monitor reasonably requests (§ 123).
- 15) Annual Blackman Jones Update Report on compliance status, prepared in consultation with class counsel, must be submitted to each school servicing DC special education students including but not limited to an update on compliance progress, challenges for achieving compliance. The report must be prepared in consultation with class counsel, with disputes decided by the Monitor (§ 129).

O. MISCELLANEOUS ADMINISTRATIVE ISSUES

- 1) The Consent Decree must be posted on [OSSE] Website (§ 128).
- 2) The Annual Blackman Jones Update Report referred to in Consent Decree paragraph 129, must be posted on the [OSSE] website the within 10 days of each update and maintained on the [OSSE] Website during pendency of the Consent Decree (§ 130).
- 3) The District asserted that the District Anti Deficiency Acts apply to this Consent Decree; plaintiffs asserted the Anti-Deficiency Acts do not apply to relieve the District of any obligations or compliance under the Consent Decree. The parties agree to address the issue when necessary (§ 138).

- 4) The Consent Decree states that District of Columbia and federal procurement laws and regulations do not apply to Defendant's in this case. [This provision may not be enforceable, and should be relied upon as a last resort and sparingly used. We advise compliance with procurement laws and regulations in all practicable situations] (§ 139).

P. TERMINATION OF LITIGATION

The following criteria must be met to end all or portions of this case.

Termination of the Blackman case:

- 1) Twelve months with 90% of the hearing requests timely adjudicated (by the issuance of a final HOD) or a settlement; and no due process hearing requests more than 90 days overdue (§ 146).
- 2) The District must provide written notification to class counsel and the Monitor, with a right to respond and question compliance status and ensuing process (§ 149).

Termination of the Jones case:

- 1) Elimination of the Jones initial backlog, and for the preceding twelve months, 90% of the HODs/SAs have been timely implemented during the measurement period; with no case over 90 days overdue (§ 148).
- 2) The District must provide written notification to class counsel and the Monitor, with a right to respond and question compliance status and ensuing process (§ 149).

Termination of the Consent Decree:

When both the Blackman and Jones portions of the case are dismissed, in conformance with paragraphs 146 through 149, the remaining provisions of the Consent Decree shall cease to be in effect (§ 150).

Q. STUDENTS IN CHARTER SCHOOLS

The parties will ask the Court to resolve the following legal question: "Are the defendants legally responsible for ensuring timely hearings and timely implementation of the HODs and SAs for charter school students?"

The Consent Decree will be interpreted according to the Court's decision (§ § 151, 152).

